



**COURT OF APPEALS  
DECISION  
DATED AND RELEASED**

**SEPTEMBER 19, 1995**

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

**NOTICE**

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

No. 95-1630-FT

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT III**

**IN THE INTEREST OF  
ERIC P. Z., A PERSON  
UNDER THE AGE OF 18:**

**MARATHON COUNTY,**

**Petitioner-Respondent,**

**v.**

**ERIC P. Z.,**

**Respondent-Appellant.**

APPEAL from an order of the circuit court for Marathon County:  
MICHAEL W. HOOVER, Judge. *Affirmed.*

CANE, P.J. Eric P. Z. appeals an order finding him in need of protection and services because of habitual truancy.<sup>1</sup> He contends that an unexcused "tardy" is not an unexcused absence for the purposes of § 48.13(6), STATS. The order is affirmed.

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<sup>1</sup> This is an expedited appeal under RULE 809.17, STATS.

The facts are undisputed as a result of a stipulation of the parties. Eric's birthdate is December 28, 1980, and he is enrolled at a junior high school where he had seven unexcused absences and nine unexcused tardies during the school semester. Section 48.13(6), STATS., provides for jurisdiction over a child who is habitually truant from school. Habitual truant is defined under § 118.16(1)(a), STATS., as follows:

- (a) "Habitual truant" means a pupil who is absent from school without an acceptable excuse under sub. (4) and s. 118.15 for either of the following:
  - 1. *Part* or all of 5 or more days out of 10 consecutive days on which school is held during a school semester.
  - 2. *Part* or all of 10 or more days on which school is held during a school semester. (Emphasis added.)

At the hearing on Eric's motion to dismiss the truancy petition, the school reports reflected seven unexcused days and nine unexcused tardies to school. Eric contended that the times he was tardy from school should not count as an unexcused absence for purposes of the habitual truancy statute. The state argued that the tardies must be included as unexcused absences because they were part of the day, and the trial court agreed.

The issue is whether an unexcused tardy constitutes an unexcused absence within the meaning of § 48.13(6), STATS. A statutory interpretation is a question of law which this court reviews de novo. *State v. Anderson*, 178 Wis.2d 103, 107, 503 N.W.2d 366, 368 (Ct. App. 1993).

Contrary to Eric's argument, the statute is unambiguous regarding the definition of habitual truant. If a child is absent for part or all of a day for the number of days listed, there is a truancy. Under the plain language of the statute, any unexcused absence during part of a day is considered a truancy.

Because Eric was absent from school without a valid excuse sixteen times during the school semester, the court had authority to conclude

that Eric was habitually truant and therefore in need of protection and services. The order is therefore affirmed.

*By the Court.* – Order affirmed.

This opinion will not be published. RULE 809.23(1)(b)4, STATS.